

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Re: Application of: David Morton, et al. Confirmation No.: 9629

Serial No.: 10/571,184

Filed: July 17, 2006 as national phase of International Patent
Application PCT/GB2004/003932, filed September 15, 2004

For: **MUCOACTIVE AGENTS FOR TREATING A
PULMONARY DISEASE**

TC/A.U.: 1623

Examiner: Eric OLSON

Customer No: 23280

February 17, 2011

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

S I R:

In accordance with Applicants' duty of disclosure under 37 C.F.R. §§ 1.56 and 1.97, Applicant hereby submits this Information Disclosure Statement, including one (1) sheet of Form PTO-1449, for consideration by the Examiner in connection with the above-identified patent application.

Applicants point out that attached as reference A9 is a copy of the European Patent Office's Summons to Oral Proceedings dated December 20, 2010 issued in connection with corresponding European Patent Application No. 04768478.2. Also attached is reference A5 is WO 01/32144 which was cited in the Summons. Applicants note that the following references cited in the Summons are not set forth on the enclosed PTO Form 1449, nor are copies provided herewith because these references were made of record in this application in a previously submitted Information Disclosure Statement.

- Tomkiewicz, R.P., et al., "A comparison of new mucolytic N-acetylcysteine L-lysinate with N-acetylcysteine: airway epithelial function and mucus changes in dog", Pulmonary Pharmacology, 8, pgs. 259-65, 1995
- Tomkiewicz, R.P., et al., "Mucolytic treatment with N-acetylcysteine L-lysinate metered dose inhaler in dogs: airway epithelial function changes", Eur. Respir J., 7, pgs. 81-87, 1994

- WO 00/33811 A2 (Vectura Ltd. [GB]; Ganderton David [GB]; Morton David Alexander Vodden) 15 June 2000 (2000-06-15)
- Lucas, Paul, et al., "Enhancement of small particle size dry powder aerosol formulations using an ultra low density additive", Pharmaceutical Research, Vol. 16, No. 10, pgs. 1643-47 1999

In addition, a copy of the Japanese Office Action dated December 14, 2010 is submitted as reference A10. A copy of references A5 (WO 01/32144) and A6 WO 01/34232 which are listed under the heading "Record of Prior Art Search" in the Japanese Office Action, are enclosed herewith. It should be noted that neither WO 01/32144 and WO 01/34232 were cited by the Japanese Patent Office for purposes of rejecting the application. Applicants note that copies of the following references cited in the Japanese Office Action are not set forth on the enclosed PTO Form 1449 because these references were made of record in this application in a previously submitted Information Disclosure Statement.

- PCT International Publication No. WO 01/15672
- PCT International Publication No. WO 03/068188
- PCT International Publication No. WO 03/068187
- PCT International Publication No. WO 03/068254
- PCT International Publication No. WO 99/06025
- PCT International Publication No. WO 97/06783

Additionally, WO 97/06783 is not set forth on the PTO Form 1449 because corresponding U.S. Patent No. 5,690,910 was previously submitted in an Information Disclosure Statement.

The present Information Disclosure Statement is filed under 37 C.F.R. § 1.97(d) and (e)(1), before the payment of the issue fee and each item of information contained in the Information Disclosure Statement was first cited in the Japanese Office Action dated December 14, 2010 or in the European Summons dated December 20, 2010 (i.e. a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement). Accordingly, the present Information Disclosure Statement is timely. Applicants enclose the requisite fee due under 37 C.F.R. § 1.17(p), in connection with the filing of this Information Disclosure Statement. If it is determined that any additional fee is due, the Examiner is authorized to charge said fee to Attorney Deposit Account No. 50-0552.

Applicants respectfully request that the references cited in the accompanying PTO 1449 form be considered and made of record. Applicants respectfully submit that the pending claims are patentable over all of the references made of record at this time.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By: /Leslye B. Davidson/
Leslye B. Davidson, Reg. No. 38,854

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018
(212) 736-1940